IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

OP.No. 26822 of 1999(R)

PETITIONER:

QUILON DISTRICT WHOLESALE CO- OPERATIVE CONSUMER STORES LIMITED NO.Q.291, KOLLAM, REP.BY ITS MANAGER – IN – CHARGE OF MANAGING DIRECTOR

BY ADV. SRI.B.SURESH KUMAR
SMT.S.SHEEJA

RESPONDENTS:

----

1. **K.G.GOPINATHAN, PRAKASH MANDIRAM, ULIYACOVIL, KOLLAM.**

3. **AUTHORITY UNDER THE PAYMENT OF WAGES ACT (LABOUR COURT, KOLLAM)**

BY ADV. SRI.S.VINODKUMAR
SRI.M.C.MADHAVAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 26822 OF 1999 R

Dated this the 5th day of January, 2007

J U D G M E N T

The petitioner is a Co-operative Society, which challenges Ext.P3 order of the authority under the Payment of Wages Act (Labour court, Kollam) in PWA No.23/92 filed by the 1st respondent herein under the Payment of Wages Act, 1936. The 1st respondent filed a petition under section 15(2) of the Act claiming arrears of DA, medical aid benefits, bonus, etc. alleged to be due to the petitioner from the respondents. The 1st respondent claimed a total amount of Rs.55,467.55 which was allowed by the Labour court and directed the petitioner herein to pay the same with a compensation of Rs.500/-. The same is under challenge in this original petition.

2. Along with the applications, the petitioner had also filed a statement of arrears of DA, HRA, medical aid and other benefits due to the 1st respondent from the petitioner Society. From the same, I find that the DA stated to be due to the 1st respondent for the period from 1.11.1985 to 31.12.1985 namely, for two months, is Rs.1,851/-. From the same, it is clear that the DA alone due to the 1st respondent per month was Rs.925/-. Section 1(6) of Payment of Wages Act reads as

under:

> " Nothing in this Act shall apply to wages payable in respect of a wage period which, over such wage period average (one thousand six hundred rupees) a month or more."

From the same, it is clear that if the wages payable by the petitioner to the 1st respondent per month is Rs.1,600/- or more then the application of the provisions of the Payment of Wages Act is expressly excluded. Since the DA alone of the 1st respondent per month is Rs.925/-, the monthly wages of the 1st respondent would certainly be above Rs.1,600/-. I am of opinion that that being the situation, the Labour court ought to have first examined the question as to whether it has jurisdiction to deal with the application of the first respondent at all if the petitioner's wages are Rs.1,600/- or more. This being a question of jurisdiction of the Labour court, I feel that the Labour court should examine the matter afresh in the light of Sec.1(6) of the Payment of Wages Act. For this purpose, I quash Ext.P3 order and remand the matter to the second respondent for fresh consideration in accordance with law. I further make it clear that I have not considered the other contentions of the petitioner on merits, which are left upon to be agitated by the petitioner, if necessity arises, if the decision on the question of jurisdiction is against the petitioner. In view of the fact this is an old matter, the second respondent shall dispose of the matter within a

period of four months from the date of receipt of a copy of this judgment.

The original petition is disposed of as above.

The registry shall forward a certified copy of the judgment directly to the Labour court.

(S. SIRI JAGAN, JUDGE)

aks

S. SIRI JAGAN , J.

OP No.26822/99R

J U D G M E N T

4th January, 2007